July 26, 2006 Planning Commission Meeting

3.

Item No.

## MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearings		Report prepared by: Cindy Hom			
Public Hearing: Yes:	No:				
Notices Mailed On: 7-14	1-06 Published On:	7-13-06	Posted On:	7-14-06	
TITLE:	USE PERMIT APPRO	VAL NO. UP	2006-14		
Proposal:		a 1,185 square foot juice bar establishment with a n that would allow for a reduction of three			
Location:	357 Jacklin Road				
APN:	026-28-029				
RECOMMENDATION: Approval with con-		ons			
Applicant:	Neil Lamba, Juice City, 882 Tramway Drive, Milpitas, CA 95035				
Property Owner:	Shapell Industries of Northern California, 100 North Milp Boulevard, Milpitas CA 95035			pitas	
Previous Action(s):	"S" Zone, Use Permits				
General Plan Designation:	Retail Sub Center				
Present Zoning:	Neighborhood Commerc				
Existing Land Use:	Neighborhood Shopping	ig Center			
Agenda Sent To:	Applicant & Owner (as noted above)				
Attachments:	Plans Parking Study dated 7/10/06				
PJ#	2461				

#### **BACKGROUND**

In May 1987, the City approved an approximately 10-acre neighborhood shopping center (Foothill Square) located at the northeast corner of Jacklin Road and Arizona Drive. Subsequent approvals include use permits for a supermarket, video store, restaurants, tutoring center, and fitness facility as well as various site and architectural reviews for minor modifications to the site.

#### **Site Description**

The location of the proposed juice bar is in an existing 3,000 square foot building. Currently, Starbuck's occupies 1,815 square feet of the building and the proposed juice bar will occupy the remaining 1,185 square feet. The subject tenant space is vacant and was previously occupied by Cingular Wireless.

The zoning for the property is C1, Neighborhood Commercial Other surrounding uses in the area include single-family residential uses to the east and west, Milpitas High School and Calera Creek located to the north, and Strickroth Park is located to south of the property, across Jacklin Road. Provided below is an aerial photo of the subject site.



#### THE APPLICATION

This application is submitted pursuant to Sections18.03-17 (Neighborhood Commercial, Conditional Uses, Restaurants), Section 53.19 (Parking Regulations, Markings and Modifications to Lots and Spaces), and Section 57 (Conditional Use Permits) of the Zoning Ordinance. The juice bar establishment is conditionally permitted with a Use Permit in the C1 zoning district. The applicant is also requesting a parking modification that will allow a reduction of three required parking spaces for this use.

#### PROJECT DESCRIPTION

The applicant proposes to operate a 1,185 square foot juice bar that sells various beverages including smoothies, fresh juices, pearl drinks, and health wraps. Per Condition of Approval No. 2, the Project shall be restricted to 6:00 AM to 11:00 PM seven days a week. However, according to the applicant their initial operating hours will be as follows.

Monday – Friday:

6:00AM to 10:00PM

Saturday:

6:00AM to 5:00PM

Sunday:

9:00AM to 3:00PM

The applicant is also proposing 19 indoor seats which require a parking modification. Analysis of the parking will be discussed separately in another section of the staff report.

No other exterior building or site modifications are proposed with this application.

#### Floor Plan

The main entrance to the juice bar is accessed from the parking lot located on the north side of the building. The front and side area consists of four (4) tables, sixteen (16) chairs and one (1) bar counter that accommodate three (3) seats. The space is designed with a 28-foot long preparation and service counter and a 175 square foot waiting area.

#### DISCUSSION

### **USE PERMIT FINDINGS**

Any approval of a Use Permit or Use Permit Amendment, requires that the Planning Commission make the following findings:

- 1. The proposed use is consistent with the Milpitas Zoning Ordinance.
- 2. The proposed use is consistent with the Milpitas General Plan.
- 3. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

The following sections explain how these findings can be made for the proposed project, as conditioned.

## Conformance with the Milpitas General Plan and Zoning Ordinance

The use is consistent with the City's General Plan and Milpitas Zoning Ordinance. The proposed use is located within a neighborhood shopping facility and provides a business that services the convenience needs of the neighborhood while maintaining a pleasant shopping environment. As proposed, the Project complies with the following Implementing Policies:

Implementing Policy 2.a-I-3, which encourages economic pursuits that strengthen and promote stable development.

Implementing Policy 2.a-I-6, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector, this will provide a retail service in the City

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Implementing Policy 2.a-I-7, which provides opportunities to small businesses to establish within the City and to provide employment opportunities.

#### **Parking**

Over time, the site was approved with various use permits for different uses and also included parking modifications such parking reductions in the number of parking spaces required. As demonstrated in the Parking Summary table below, the site was originally developed with 485 parking spaces. Per the Zoning Ordinance requirements for parking, the original development of the site required 471 parking spaces for the main retail building and three (3) other retail pad buildings. Therefore, the site provided 14 excess parking stalls. Since then, one (1) parking space was deleted to accommodate a new trash enclosure. Currently, the site provides 484 onsite parking spaces.

Parking Summary				
Original Parking Supply	485			
Number of Stalls Required				
Main Building	406			
Pad Buildings	+65			
	471			
Number of Excess Stalls	485 - 471 = 14			
Loss of parking space over time	1			
Total Number of existing onsite parking spaces	484			

For this application the applicant is proposing 19 seats which requires 9 parking spaces based on the City's parking regulations that require1 parking space per 3 seats and 1 space per 50 square foot of take out or waiting area. As a result, the proposed use requires 4 more parking spaces than what was originally allocated to the tenant space. As a result, Staff conducted a site visit and calculated the parking for the various existing uses and required the applicant to provide a parking study.

Provided in the preceding table is a matrix of all the existing uses and denotes the number of parking spaces allotted and the number that is required based on zoning requirements for parking. The last two columns indicate which uses were allocated with excess stalls and/or uses that were granted a parking reduction.

Restaurant Uses	# Allocated	# Required	# of Excess stalls utilized	# of approved stalls granted with a parking reduction
Starbuck's Coffee	8	12	4	
Burrito Express	5	6	1	
Little Ceasar's	7	3		
USA Donuts	5	8	3	
China Rose	7	14	7	
Juice City	<b>6</b>	5 7 7 7 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9		<b>3</b>
Retail Uses				
Keypoint	7	8	1	
Dollar Store	4	4		
K M Hair Today	4	6		
Edible Arrangements	6	6		
Nob Hill	183	183		
Blockbuster's Video	16	16		
Office Uses				
Foothill Optometry	10	8		
Dr. Usha Shah	6	5		
Alliance	35	35		
Other Uses				
Tutoring Center	9	3		
Rivalution Internet Arcade	. 10	13		3
24 Hr. Fitness	118	71		
Total	440	401	16	3

<sup>\* -</sup> Parking for fitness facilities, while not identified in the zoning ordinance, has been approved by the Planning Commission as part of a S-Zone and use permit application (Use Permit No. 1544) as per 3.5 stalls per 1,000 square feet of gross floor area, in addition, this ratio has been used for numerous other projects since this approval.

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Based on the parking requirements for the existing uses of the site and the proposed juice bar, 410 parking spaces are required. As mentioned above, the site currently provided 484 parking spaces and therefore, staff does not anticipate a negative impact. However, it should be noted that if 24 Fitness were to be converted back into a retail use, there would be a parking deficiency.

A 7-day parking study was provided to determine if there is adequate parking to accommodate the anticipated parking demand. Based on the parking study, the site has less than 50% parking utilization during the weekday mid day and weekend peak periods. It is in staff's opinion, the proposed use will not negatively impact parking based on the parking study and analysis of the existing uses. Although the parking field in near the proposed juice bar, Starbuck's, and 24 Hour Fitness was nearly full on most weekday afternoons and early evenings, it demonstrates a parking distribution problem and not a parking deficiency. There are 18 parking spaces located on east side of main driveway, next to the subject site that are vacant most of the time and would be convenient and accessible by Juice City patrons and employees.

## **Community Impact**

Based on the previous discussion in this staff report, staff concludes that, as conditioned, the proposed business will not create any adverse impacts to surrounding land uses. The use will be a complementary and compatible use with existing land uses and surrounding neighborhood.

#### RECOMMENDATION

Approve Use Permit No. UP2006-14 subject to the Findings and Special Conditions listed below:

#### **FINDINGS**

- 1. The project is consistent with the City's General Plan (Retail Sub-Center) in that it is a business at the Foothill Shopping Center that contributes to the day-to-day general commercial needs of the neighborhood.
- 2. The project is consistent with the City's Zoning Ordinance purpose and intent for the Neighborhood Commercial district, because it will complement other retail uses at the center and will serve the surrounding neighborhood.
- 3. As conditioned, the project will not create any adverse community impacts since it will provide a convenient service to the neighborhood and will not detrimentally impact parking, traffic, or noise.
- 4. The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) of the State CEQA Guidelines.

## SPECIAL CONDITIONS

- 1. This Use Permit No. UP2006-14 approval is for a 1,185 square foot juice bar located at 357 Jacklin Road as shown on approved plans dated July 26, 2006, except as may be otherwise modified by these conditions of approval. Any change in nature of the operation shall require review and approval by the Planning Commission of an amendment to this Use Permit. Minor changes, as per Sec. 42-10-2 of the Milpitas Zoning Ordinance, to approved plans may be approved by the Planning Division staff. (P)
- 2. Hours of operation shall be limited to 6:00 AM to 11 PM seven days a week.

- 3. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved plans. (P)
- 4. All roof-top equipment shall be shielded from view in a manner to the approval of the Planning Commission or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof-top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)
- 5. No sign approval is granted under this permit, all signs shall conform to the existing sign program for the shopping center. (P)
- 6. If at the time of application for permit there is a project job account past due balance to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
- 7. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
- 8. Per Chapter 200, Solid Waste Management, V-200-3.10, General Requirement, applicant / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 Owner Responsible for Solid Waste, Recyclables, and Yard Waste, applicant / property owner shall subscribe to and pay for solid waste services rendered. Prior to occupancy permit issuance (start of operation), the applicant shall submit evidence to the City that a minimum level of refuse service has been secured using a Service Agreement with Allied Waste Services (formally BFI) for commercial services to maintain an adequate level of service for trash and recycling collection. After the applicant has started its business, the applicant shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. (E)
- 9. The developer shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance. Contact the Land Development Section at (408) 586-3329 to obtain the form(s). (E)
- 10. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

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- 11. It is the responsibility of the applicant to obtain any necessary encroachment permits or approval from affected agencies or private parties. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
- 12. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, plan check and inspection deposit. (E)
- 13. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in A Special Flood Hazard Area, Zone AO. The proposed work to the existing structure is considered a non-substantial improvement and the zone designation is given for information only. (E)
- (P) = Planning Division
- (E) = Engineering Division

# MEMORAND UM

## Transportation Planning

To:

Cindy Hom, Planning Division

From:

Joseph J. Oliva III, Principal Transportation Planner

Subject:

Parking Reduction for Juice City at Foothill Square Shopping Center

Date:

July 10, 2006

## Introduction and Background

Juice City is requesting approval of a Use Permit for a Reduction in Parking at the Foothill Square Shopping Center on Jacklin Road. The Foothill Square Shopping Center is a Neighborhood Shopping Center consisting of a Nob Hill supermarket, a 24 Hour Fitness Health Club, several smaller tenants and three free-standing commercial pads. Juice City would be located within the center freestanding commercial pad next to Starbucks Coffee.

Juice City is proposing to occupy 1,185 square feet next to Starbucks Coffee. A typical commercial retail space consisting of 1,185 square feet would require 6 parking spaces, according to the Milpitas Zoning Ordinance. Since Juice City is proposing to serve food and have take-out, the required parking is calculated to be nine spaces. Therefore, a Use Permit for a Reduction in Parking for three spaces is required.

#### Study Methodology and Results

In order to make findings for a Use Permit for a Reduction in Parking, findings must be made that an adequate parking supply is available to accommodate anticipated parking demand. In order to accomplish this, City Staff and the applicant conducted a Parking Accumulation Study for the Foothill Square Shopping Center. The Parking Accumulation Study measures hourly parking demand during peak parking times at the shopping center. The Foothill Square Shopping Center consists of four distinct parking fields for patrons to park. They include:

- Nob Hill Supermarket 184 parking spaces
- 24 Hour Fitness Health Club 138 parking spaces
- Blockbuster Video Rental 20 parking spaces
- Starbucks Coffee/Alliance Title 42 parking spaces

There are also 83 parking spaces in the rear of the shopping center and 18 spaces facing Jacklin Road that were not part of the parking survey. These parking spaces were observed to have very little parking demand during the survey period.



The Parking Accumulation Study survey period began on Monday June 26<sup>th</sup> and ended Sunday July 2<sup>nd</sup>. The times surveyed were every half hour between 11:00 AM and 1:00 PM and 4:00 PM to 6:00 PM. The number of parked vehicles in each parking field was recorded every half hour and compared to the available parking supply. Table 1 below summarizes the results of the Study.

Table 1
Parking Accumulation Results

Date	Time	Parking De	mand Parking Supp	oly Occupancy
Mon 06-26-06	12:00 –12:30	190	384	49.5%
	12:30-1:00	191	384	49.7%
	1:00-1:30	186	384	48.4%
	1:30-2:00	148	384	38.5%
The state of the s				
	4:00-4:30	142	384	37.0%
	4:30-5:00	177	384	46.1%
	5:00-5:30	188	384	49.0%
	5:30-6:00	263	384	68.5%
Tues 06-27-06	11:00-11:30	161	384	41.9%
	11:30-12:00	168	384	43.8%
	12:00 -12:30	166	384	43.2%
	12:30-1:00	177	384	46.1%
	4:00-4:30	184	384	47.9%
The second second	4:30-5:00	178	384	46.4%
May and the Addition	5:00-5:30	223	384	58.1%
	5:30-6:00	254	384	66.1%
Wed 06-28-06	11:00-11:30	126	384	32.8%
	11:30-12:00	138	384	35.9%
	12:00-12:30	153	384	34.6%
	12:30-1:00	163	384	42.4%
	4:00-4:30	180	384	46.9%
	4:30-5:00	182	384	47.4%
	5:00-5:30	209	384	54.4%
	5:30-6:00	220	384	57.3%
1 (F. 14 (F. 11)				
Thur 06-29-06	<b>8</b>	155	384	40.4%
Part of	11:30-12:00	153	384	39.8%
	12:00-12:30	163	384	42.4%
	12:30-1:00	175	384	45.6%

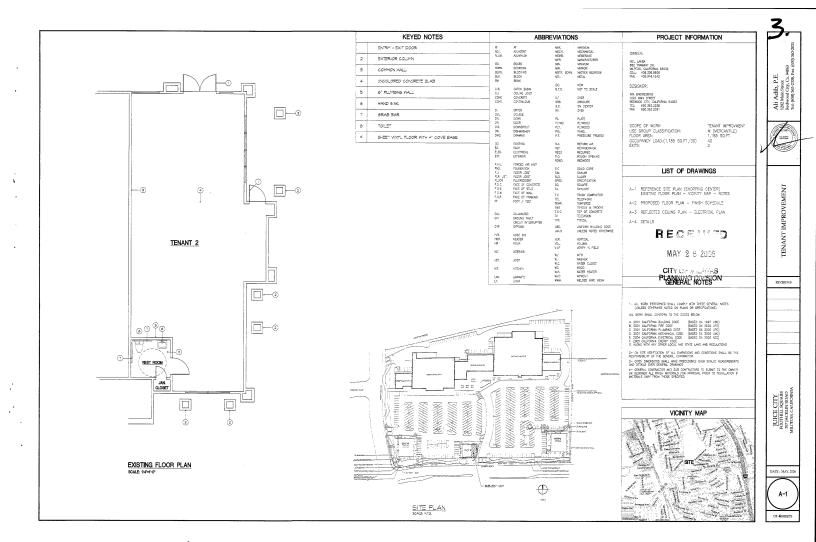
	4:00-4:30	187	384	48.7%	
The state of the s	4:30-5:00	195	384	50.8%	
	5:00-5:30	197	384	51.3%	
	5:30-6:00	231	384	60.2%	
	11 00 11 20	1 4 4	384	37.5%	
Fri 06-30-06	11:00-11:30	144		42.2%	
	11:30-12:00	162	384	44.9%	
	12:00-12:30	169	384		
	12:30-1:00	167	384	43.5%	
	4:00-4:30	136	384	35.4%	
	4:30-5:00	165	384	43.0%	
	5:00-5:30	179	384	46.6%	
	5:30-6:00	165	384	43.0%	
Sat 07-01-06	11:00-11:30	155	384	40.4%	
	11:30-12:00	170	384	44.3%	
	12:00-12:30	169	384	44.0%	
and the second second	12:30-1:00	141	384	36.7%	
19 (19 (19 (19 (19 (19 (19 (19 (19 (19 (	4.00.4.20	110	384	31.0%	
	4:00-4:30	119	-	27.6%	
	4:30-5:00	106	384	28.1%	
	5:00-5:30	108	384		
	5:30-6:00	102	384	26.6%	
Sun 07-02-06	11:00-11:30	109	384	28.4%	
	11:30-12:00	113	384	29.4%	
	12:00-12:30	112	384	29.2%	
	12:30-1:00	108	384	28.1%	
	4:00-4:30	105	384	27.3%	
	4:30-5:00	90	384	23.4%	
	5:00-5:30	87	384	22.7%	
	5:30-6:00	87	384	22.7%	

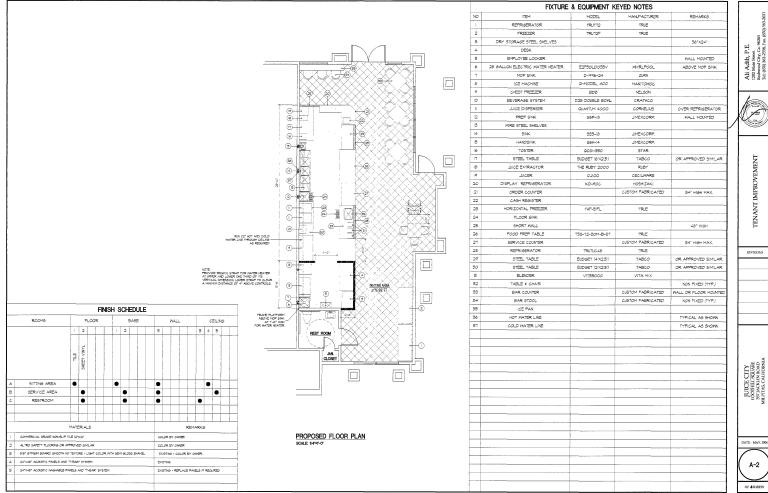
As shown on Table 1, the maximum parking demand occurs on Monday through Thursday evenings (5:30 to 6:00 PM) with up to 68% of the shopping center's parking spaces occupied. The mid day period (11:00 AM to 1:00 PM) was documented to have less than 50% of the shopping center's parking spaces occupied. The individual parking counts for the 4 major parking fields are contained as attachments to this memorandum. The 24 Hour Fitness Health Club parking field had the highest parking utilization, measuring 84% to 98% occupied between 5:30 and 6:00 PM on Monday through Thursday. The largest parking field (Nob Hill Supermarket) was never greater than 50% occupied.

## **Summary and Conclusions**

The four major parking fields with the Foothill Square Shopping Center were surveyed during the mid day and afternoon peak periods for seven consecutive days between June 26<sup>th</sup> and July 2<sup>nd</sup> 2006. Weekday evenings between 5:00 and 6:00 PM had the highest parking utilization documented in the study. Weekday mid day and weekend peak periods experienced less than 50 % parking utilization.

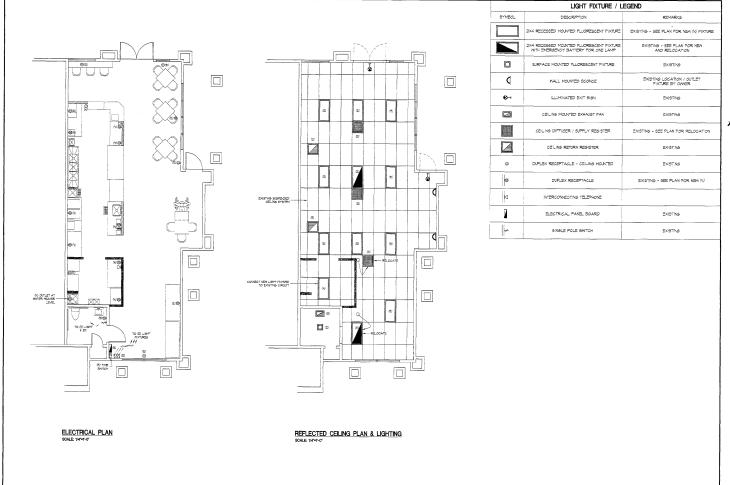
Although the 24 Hour Fitness Health Club parking field was nearly full on most weekday afternoon/early evening, there was plenty of parking availability within the shopping center. Also, the 18 parking spaces facing Jacklin Road (just east of Starbucks Coffee) were vacant most of the time and are easily accessible by Juice City patrons and employees. The Foothill Square Shopping Center has available parking supply to support the Use Permit for a Reduction of Parking for the Juice City Use Permit.











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TENANT IMPROVEMENT

